

*Me # 039471*

*62*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

RALPH CLAXTON

V.

WAYNE COUNTY ASSESSOR'S OFFICE,  
WAYNE COUNTY TREASURER'S OFFICE,  
RAYMOND J WOJTOWICZ, and  
TUTA HOMES LLC,

Case: 2:12-cv-10344  
Judge: Zatkoff, Lawrence P.  
MJ: Komives, Paul J.  
Filed: 01-26-2012 At 01:05 PM  
CMP RALPH CLAXTON V WAYNE COUNTY AS  
SESSOR'S OFFICE, ET AL (LG)

**COMPLAINT TO QUITE TITLE, VIOLATION OF THE FOIA 5  
USC 552, SLANDER OF TITLE, TRESPASSING, VIOLATION OF 42  
USC 1983, AND OTHER RELIEF SET FORTH IN THIS  
COMPLAINT**

1. **FEDERAL QUESTION JURISDICTION: 28 USC § 1331:** The federal district court has subject matter jurisdiction to consider this claim under authority of and by virtue of sufficient pleadings clearly articulating violations of FOIA, 42 USC 1983, Slander of Title, Trespassing, and other violations named herein.
2. **SUPPLEMENTAL JURISDICTION: 28 U.S.C. § 1367 (a):** Also, Plaintiffs request this Honorable court exercise supplemental jurisdiction over Plaintiff's state-law claims.
3. Further, this case seeks declaratory relief that Wayne County Treasurer **Raymond J Wojtowicz** and Wayne County Assessor office is in violation of the FOIA, 5 U.S.C.

§552(a) and (b), for failing to respond to plaintiff's request for records and injunctive relief ordering defendant Wayne County Treasurer office and Wayne County Assessor office to process immediately remove all negative documents hindering exclusive title to the Plaintiffs.

### **PARTIES**

4. Plaintiffs are resident at 23040 Leewin of the city of Detroit, County of Wayne, State of Michigan.

5. The property in dispute is 22981 Leewin of the city of Detroit, County of Wayne, State of Michigan.

6. That upon information and belief Defendant Wayne County Assessor office is a municipal corporation established through the laws of the State of Michigan.

7. That upon information and belief Defendant Wayne County Treasurer is a municipal corporation formed through laws of the State of Michigan,

8. That upon information and belief Defendant **Raymond J Wojtowicz** is the Treasure for Wayne County, the municipal corporation.

9. That upon information and belief Defendant TUTA HOMES LLC is a corporation located at 24001 Southfield Rd. Ste 100 of Southfield, Michigan

10. That upon information and belief Defendant Jonathan Deisler is a agent of TUTA HOMES LLC.

11. That upon information and belief Defendant Dave Earlickman is a agent of TUTA HOMES LLC

### STATEMENT OF FACTS

12. On July 13,2007 Plaintiffs Melaine and Ralph Claxton purchased the property Located at 22981 Leewin Detroit, Michigan, and are the exclusive owner of the property.

13. On or around January, 2011, Plaintiffs received a Notice of Delinquent taxes from Treasurer **Raymond J Wojtowicz**, which Specified that (**Exhibit A**):

**If a judgment is entered, you have the right to retain the property by paying the unpaid forfeited 2008 and/or prior years delinquent taxes, interest, penalties, and fees at any time prior to March 31, 2011. Unless you pay the delinquent taxes, interest, penalties, and fees by the March 31, 2011, by state law, you will lose your interest in the property and the title will transfer to the Wayne County Treasurer.**

**Two hearings will take place before the judgment becomes final:**

1. SHOW CAUSE HEARING is scheduled for the parcel ID shown on the front side of this notice for at 9:00 a.m. at Cobo Hall, Riverview Ballroom, 1 Washington Blvd., Detroit, MI 48226. The Show Cause Hearing allows you the opportunity to explain why title to the property should not transfer to the Wayne County Treasurer. You may appear at The Show Cause Hearing in person, through an agent or in writing.
2. NOTICE OF JUDICIAL FORECLOSURE HEARING will be held pursuant to MCL 211.78k on February 24, 2011 commencing at 9:30 am, before Chief Judge Virgil C. Smith, Jr. in the Wayne County Circuit Court, 701 Coleman A. Young Municipal Center, 2 Woodward Ave., Detroit, Michigan 48226. If you claim an interest in the property and want to contest the Petition, you must file written objection at least fourteen (14) days prior to the hearing date with Chief Judge Smith's Court Clerk, and provide the Wayne County Treasurer with a copy of the written objection either by regular mail or by hand delivery do Wayne County Corporation Counsel/Objections, 400 Monroe St., Suite 660 Detroit, Michigan 48226. The written objection must be filed and received by the Court and Corporation Counsel on or before February 10, 2011. If no objection is filed, or if

you fail to appear at the hearing after an objection is filed, the Court may enter a Judgment of Foreclosure. If you have an interest the property listed on the Reverse side of this notice, you could lose your interest as a result of the foreclosure proceeding brought pursuant to MCL 211.78k.

**You may dispute the validity or correctness of the unpaid delinquent taxes, interest, penalties, and fees for one or more of the following reasons:**

- 1. No law authorizes the tax.**
- 2. The person appointed to decide whether the tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question.**
- 3. The property was exempt from the tax in question, or was not legally levied.**
- 4. The tax has been paid within the time limited by law for payment or redemption.**
- 5. The tax was assessed fraudulently.**
- 6. The description of the property used is indefinite or erroneous that the forfeiture was void.**

14. So, on or around February 6, 2011, Plaintiffs mailed Wayne County Treasurer's Office and/or the governmental foreclosing unit, by way of FOIA Coordinator David Szymanski, and Wayne County Treasurer' **Raymond J Wojtowicz**, Written Objections, and a FOIA request which explained specific objection and sought documentation concerning Wayne County Treasurer Office's ability to directly or indirectly Tax Plaintiff's Private Property (**Exhibit B**)

15. On March 10, 2011, the Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, issued an answer to Plaintiffs FOIA request and specifically stated, in part: There was no document, law, statutorily or constitutionally that exist in its possession that authorized Property Taxes. (**Emphasis added**) Further, Coordinator David Szymanski never referred to and/or presented any of the statues found in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999 to support Wayne County Treasure Office.

16. As specified on Page 2 of Coordinator David Szymanski's response to Plaintiff's FOIA: "*As a courtesy a copy of this request has been sent to the appropriate department which is the Wayne County Assessor's Office.*" (see **Exhibit C**)

17. The Wayne County Assessor's Office received actual notice of Plaintiffs Written Objections and FOIA as Coordinator David Szymanski conveyed in his response. However, the Wayne County Assessor's Office, and Raymond J Wojtowicz has refused to respond to Plaintiffs Written Objections and FOIA. Specifically, Wayne County Assessor's Office has refused to respond or provide assessments and appraisals establishing how the Plaintiffs were liable for property taxes, and Raymond J Wojtowicz, and/or "*the Person appointed to decide whether the tax shall be levied under a law of this state*", failed to even answer at all.

18. A "governmental foreclosing entity" is a fiduciary toward the public, including, in the case of the Wayne County Assessor's Office and Raymond J Wojtowicz, the FOIA requestor, who sought documents pursuant to the rules and/or FOIA . . ." (Emphasis added.) **McNALLY v. UNITED STATES**, 483 U.S. 350, 371, 372 (1987) "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. " (Emphasis added.) **UNITED STATES v. PRUDDEN**, 424 F.2d 1021 (5th Cir. 1970)

19. Plaintiffs did not receive any other Notices from the Wayne County Treasurer's

Office, the Circuit Court, Raymond J Wojtowicz or the Wayne County Assessor's Office.

20. On Sunday November 13, 2011, a Non- business day, Agent Jonathan Deisier of Customer First Homes came to Plaintiffs' property to see if the property was occupied and informed the occupant that the property was sold, due to delinquent Property taxes, and eventually their office intend to do an eviction on the property.

21. As a result of the Wayne County's Treasurer Tax Auction, Wayne County Treasurer slandered the title on November 18, 2011 by recording a "Wayne County Treasurer Quit Claim Deed". Wayne County Treasurer Raymond J. Wojtowicz falsely claimed to be Grantor of Plaintiffs' property as a result of unpaid Property Taxes.

22. On 12-12-2011 TUTA Homes L.L.C sent the occupant, certified mail, return receipt , a Notice to Quit. (**Exhibit D**). The occupant is plaintiff nephew, who maintains the up-keeps the family house. Plaintiffs' nephew moved in after Main Street Bank breached the contract, to insure that there would be no more stolen pipes and fixture. Further, the Plaintiffs does not receive any rent from his Nephew, and there is no revenue to be taxed as a result of his occupancy.

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## STATUTORY FRAMEWORK

### A: FOIA

23. The FOIA, 5 U.S.C. § 552, requires agencies to release requested records to

the public unless one or more specific statutory exemptions apply.

24. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request and of the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a) (6) (A)(i).

25. In "unusual circumstances," an agency or "public body" may delay its response to a FOIA request or appeal, but must provide notice and "the date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B). Any such delay may it exceed an additional ten working days beyond the initial 20-working-day period mandated-by the FOIA.

26. An agency must produce all responsive records except to the extent they, or any portion thereof; fall into one of nine specified exemptions. 5 U.S.C. § 552(b).

27. Thus, this Court has jurisdiction under 5 U.S.C. § 552(a)(4)(B), upon receipt of this complaint, "to enjoin Wayne County Assessor office and Raymond J Wojtowicz from withholding agency records, selling plaintiff property, and should be to order produce documents held by Wayne County Assessor office and Raymond J Wojtowicz, which are being improperly withheld from the complainant and return title to the Plaintiffs through applicable laws set forth herein ."

**B: MCL 211.78l MCL 211.78l Owner of extinguished  
recorded or unrecorded property interest; claim of  
failure to receive notice; action to recover monetary**

**damages; right to sue not transferable.**

28. Sec. 78l. (1) If a judgment for foreclosure is entered under section 78k and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in section 78k, the owner of any extinguished recorded or unrecorded interest in that property who claims that he or she did not receive any notice required under this act shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages as provided in this section. (2) The court of claims has original and exclusive jurisdiction in any action to recover monetary Damages under this section.(3) An action to recover monetary damages under this section shall not be brought more than 2 years after a judgment for foreclosure is entered under section 78k.(4) Any monetary damages recoverable under this section shall be determined as of the date a judgment for foreclosure is entered under section 78k and shall not exceed the fair market value of the interest in the property held by the person bringing the action under this section on that date, less any taxes, interest, penalties, and fees owed on the property as of that date. (5) The right to sue for monetary damages under this section is not transferable except by testate or intestate succession.

**C: Trespassing**

29. To establish a claim for trespass to chattels, also known as trespass to personal property, a plaintiff must show a wrongful exercise of dominion or control over the plaintiff's property. See *Burns v Kirkpatrick*, 91 Mich 364; 51 NW 893 (1892). "In Michigan, recovery for trespass to land is available only upon proof of an unauthorized direct or immediate intrusion of a physical, tangible object onto land over which the



plaintiff has a right of exclusive possession.” *Terlecki v Stewart*, 278 Mich App 644, 654; 754 NW2d 899 (2008) (internal quotation omitted).

#### **D: Slander of Title**

30. In Michigan, actions for slander of title exist under the common law and by statute. *B & B Investment Group v Gitler*, 229 Mich App 1, 8; 581 NW2d 17 (1998). MCL 565.108 provides: No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to land, and in any action brought for the purpose of quieting title to land, if the court shall find that any person has filed a claim for that reason only, he shall award the plaintiff all the costs of such action, including such attorney fees as the court may allow to the plaintiff, and in addition, shall decree that the defendant asserting such claim shall pay to plaintiff all damages that plaintiff may have sustained as the result of such notice of claim having been so filed for record. The elements of the claim are the same under the statute or the common law. *B & B Investment Group*, *supra* at 8. “To establish slander of title at common law, a plaintiff must show falsity, malice, and special damages, i.e., that the defendant maliciously published false statements that disparaged a plaintiff’s right in property, causing special damages.” *Id.* Malice is the crucial element and may be either actual or implied. *Glieberman v Fine*, 248 Mich 8, 12; 226 NW 669 (1929). Implied malice “means a wrongful act done intentionally without just cause or excuse,” i.e., without probable cause to believe the validity of the claim asserted. *Id.* Thus, there must be evidence from which to infer “that the defendant could not honestly have believed in the existence of the right he claimed, or at least that he had no reasonable or probable cause for so

believing.’” *Harrison v Howe*, 109 Mich 476, 479; 67 NW 527 (1896), quoting *Newell on Defamation*, 206.

**E: 42 USC § 1983**

31. In order to prevail on his 42 USC § 1983 claim, plaintiff must demonstrate that: (1) a person deprived him of a constitutional right; and (2) the person who deprived him of that right acted under color of state law. *Gorman v. Township of Manalapan*, 47 F.3d 628, 633 (3d Cir. 1995).

**F: General Principles of Adverse Possession**

and MCL 600.2932 (action to quiet title)

32. The basis for a claim of adverse possession is found in MCL 600.5801, which provides, in pertinent part:

No person may bring or maintain any action for the recovery or possession of any lands or make any entry upon any lands unless, after the claim or right to make the entry first accrued to himself or to someone through whom he claims, he commences the action or makes the entry within the periods of time prescribed by this section.

33. Generally, an action for the recovery or possession of land must be brought within 15 years after it accrues. MCL 600.5801(4); *Kipka v Fountain*, 198 Mich App 435, 438; 499 NW2d 363 (1993). The *Kipka* panel, addressing the principles of adverse possession, stated:

A claim of adverse possession requires clear and cogent proof that possession

has been actual, visible, open, notorious, exclusive, continuous, and uninterrupted for the statutory period of fifteen years. These are not arbitrary requirements, but the logical consequence of someone claiming by adverse possession having the burden of proving that the statute of limitations has expired. To claim by adverse possession, one must show that the property owner of record has had a cause of action for recovery of the land for more than the statutory period. A cause of action does not accrue until the property owner of record has been dispossessed of the land. MCL 600.5829. Disseisin occurs when the true owner is deprived of possession or displaced by someone exercising the powers and privileges of ownership. [Kipka, *supra* at 439 (citations omitted).]

34. Other cases additionally indicate that the possession must be hostile and under cover of a claim of right. *McQueen v Black*, 168 Mich App 641, 643; 425 NW2d 203 (1988), quoting *Connelly v Buckingham*, 136 Mich App 462, 467-468; 357 NW2d 70 (1984). "The term 'hostile' as employed in the law of adverse possession is a term of art and does not imply ill will"; rather, hostile use is that which is "inconsistent with the right of the owner, without permission asked or given," and which use "would entitle the owner to a cause of action against the intruder." *Mumrow v Riddle*, 67 Mich App 693, 698; 242 NW2d 489 (1976).

### **COUNT I** **VIOLATION OF FOIA**

35. Ralph and Melaine Claxton, hereinafter, "Plaintiff," sent Wayne County Treasurer's Office, by way of Coordinator David Szymanski, and the Wayne County Treasurer Raymond J Wojtowicz, a FOIA which sought proof and/or documentary evidence supporting Wayne County Treasurer's position to tax Plaintiff's property directly or indirectly.

36. Plaintiffs requested pursuant to the FOIA, that Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, and the Wayne County Treasurer Raymond J Wojtowicz, provided proof and/or documentary evidence supporting Wayne County Constitutional position to Tax Plaintiff's property directly or indirectly. See attached exhibit, "FOIA

37. Plaintiffs requested pursuant to the FOIA that Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, and the Wayne County Treasurer Raymond J Wojtowicz, a FOIA request which sought proof and or documentary evidence supporting how Plaintiffs were actually liable for private property taxes applied contrary to the Constitution of the USA. See attached exhibit, "FOIA"

38. Plaintiffs requested pursuant to the FOIA that Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, and the Wayne County Treasurer Raymond J Wojtowicz, to provide proof and or documentary evidence supporting the name of the responsible party who authorized said personal property taxes, and their jurisdiction on the issue, with their signature printed in said document. See attached exhibit, "FOIA"

39. Plaintiffs requested Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, and the Wayne County Treasurer Raymond J Wojtowicz, to provide proof and or documentary evidence supporting how Plaintiff was responsible for property taxes for the years 2007, 2008, and 2009. See attached exhibit, "FOIA

40. Plaintiff requested Wayne County Treasurer's Office, by way of FOIA

Coordinator David Szymanski and the Wayne County Treasurer Raymond J. Wojtowicz, to provide proof and/or documentary evidence supporting its methods of assessing personal property taxes, rules for assessment, financial criteria used for the alleged assessment, and the independent appraisal report. See attached exhibit, "FOIA.

41. Plaintiff requested pursuant to the FOIA that Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski and the Wayne County Treasurer Raymond J Wojtowicz, a FOIA request which sought proof and or documentary evidence supporting the name and company name of the independent appraiser, or the legal certified status of said appraisal. See attached exhibit, "FOIA.

42. On March 11, 2011, Wayne County Treasurer's Office, by way of FOIA Coordinator David Szymanski, issued an answer to Plaintiffs FOIA request and specifically stated, in part: There was no document, law, statutorily or constitutionally that exist in its possession that authorized Property Taxes. (**Emphasis added**) Further, Coordinator David Szymanski never referred to and/or presented any of the statues found in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999 to support Wayne County's position and/or authority to tax.

43. Coordinator David Szymanski's response to Plaintiff's FOIA stated: "*As a*

*courtesy a copy of this request has been sent to the appropriate department which is the Wayne County Assessor's Office."*

**44.** In Plaintiffs' FOIA request letter, which Coordinator David Szymanski forwarded to **the** Wayne County Assessor's Office, Plaintiffs sought "**documentation of who actually signs /verifies /authenticates the assessments on real and personal property, and on any delinquency notices for unpaid taxes.** Plaintiffs go on to State that "**An unsigned assessment is insufficient legal notice and a nullity, unless you can document and verify otherwise**". Despite the record sought by Plaintiffs, the assessor who had been certified as qualified by the board, having successfully completed training in a school of assessment practices , and assessed plaintiffs property, never indentified his or her self via FOIA.

**45. 211.10d Sec. 10d. (1)** states: The annual assessment of property shall be made by an assessor who has been certified as qualified by the board as having successfully completed training in a school of assessment practices or by the passage of a test approved by the board and conducted by the board or an agency approved by the board that will enable the person to properly discharge the functions of the office. The school shall be approved educational institution in conjunction with the board and be supervised by the board and its agents and employees. The board may determine that a director of an equalization department or an assessor, who has not received the training, possesses the necessary qualifications for performing the functions of the office by the passage of an approved examination. Thus, the validity of the assessment is of question,

in light of Wayne County Assessor office's failure to answer Plaintiffs FOIA. Also a questions exist concerning if the Assessment was properly assessed by an assessor who is certified was required under **211.10d Sec. 10d. (1)**.

46. Ultimately, Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office have conspired to withhold the document sought by the Plaintiff or confess that the document does not exist.

47. Upon receipt of Plaintiffs FOIA, Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office should have responded to Plaintiffs FOIA request within 20 working days, notifying Plaintiffs of Raymond J Wojtowicz and the Wayne County Assessor Office's determination as to whether or not they would fulfill the Request, and if not, notify the Plaintiffs of their rights to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a) (6) (A)(i).

48. However, Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office were "public bodies" who failed to respond within 20 working days, to notifying Plaintiffs' of Raymond J Wojtowicz and Wayne County Assessor Office's determination as to whether or not they would fulfill the Request. Wayne County Treasurer Raymond J Wojtowicz and the Wayne County did not notify the Plaintiffs of their rights to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a) (6) (A)(i).

49. Wayne County Treasurer Raymond J Wojtowicz and the Wayne County

Assessor's Office, and /or the "public body", may delay its response to a FOIA request or appeal, but must provide notice and "the date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B). Any such delay may it exceed an additional ten working days beyond the initial 20-working-day period mandated-by the FOIA.

50. Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office, and /or the "public body", did not provide notice and "the date of which a determination is expected to be dispatched, pursuant to 5 U.S.C. § 552(a)(6)(B). Ultimately, Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office failed to say anything.

51. As a result of Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessors Office's conspiracy to withhold the record, or in the alternative, remain silence when Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office had a legal duty to speak, such record does not exist, and Plaintiff has been damaged financially, socially, and emotionally by non-compliant acts of Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office.

52. Therefore, plaintiff seeks compensatory damages under FOIA. Also, plaintiff seeks punitive damages due to Wayne County Assessor's Office arbitrary and unlawful refusal issue or disclose copies of public record held in its possessions. Further, Plaintiffs have sustained proof of "actual damages," as a result of the auction held against Plaintiffs property.



**COUNT II**

**VIOLATIONS OF 42 USC § 1983**

53. In order to prevail on his 42 USC § 1983 claim, a plaintiff must demonstrate that: (1) a person deprived him of a constitutional right; and (2) the person who deprived him of that right acted under color of state law. *Gorman v. Township of Manalapan*, 47 F.3d 628, 633 (3d Cir. 1995).

54. Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office had actual knowledge of plaintiffs' written objections, and maintained possession of Plaintiffs' Written Objection prior to the **February 10, 2011** deadline to file objection. The notice Plaintiff received in January, 2011 specified that: **If a judgment is entered, you have the right to retain the property by paying the unpaid forfeited 2008 and/or prior years delinquent taxes, interest, penalties, and fees at any time prior to March 31, 2011.** However, in February 2011, when the plaintiffs sought via FOIA, concerning Wayne County's ability to Tax Plaintiffs private property, Coordinator David Szymanski's March 11, 2011 response specified that: *There was no document, law, statutorily or constitutionally that exist in its possession that authorized Property Taxes. (Emphasis added)* Further, Coordinator David Szymanski never referred to and/or presented any of the statutes found in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999 to support Wayne County Treasurer's position and/or authority to tax.

55. As a result of Coordinator David Szymanski response to plaintiffs FOIA, it was revealed that:

1. No law authorizes the tax.
2. The person appointed to decide whether the tax shall be levied under a law of this state(Raymond J Wojtowicz) acted without jurisdiction, or did not impose the tax in question.
3. The property was exempt from the tax in question, or was not legally levied.
4. The tax was assessed fraudulently.
5. The description of the property used is indefinite or erroneous that the forfeiture was void.

56. Coordinator David Szymanski's answer to plaintiffs FOIA was issued on March 11, 2011, before the **March 31, 2011 deadline in which plaintiffs would "lose their interest in the property and the title will transfer to the Wayne County Treasurer"**.  
(See Exhibit A)

57. Despite Wayne County Treasurer Raymond J Wojtowicz and the Wayne County Assessor's Office actual knowledge of documents sought via FOIA and written objection, which were filed with their office, the governmental foreclosing unit and/or Wayne County Treasurer Raymond J Wojtowicz , and County Assessor's Office arbitrarily deprived of plaintiff of property interests under color of state law. Wayne County Treasurer Raymond J Wojtowicz , and County Assessor's sold Plaintiffs property at a public auction, through unknown terms of assessment, an unknown assessor, and without providing itemized accounting for the tax

58. Plaintiffs sent Wayne County Treasurer **Raymond J Wojtowicz** and Coordinator David Szymanski a FOIA and Written Objection which specifically sought:

**A: Documentation regarding which type of tax my private property County taxes fell under; "direct" or "indirect," or other taxing category, naming the specific category.**

**B: Certified documents showing Wayne County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, including on land and home, since it was being applied as neither direct nor indirect.**

**C: Documentation of who the responsible party is who authorized said taxes, And their jurisdiction on this issue, to include signature and printing of that name on this document. There must be statutory law (positive law) that exists which allows this taxation, but it cannot be in conflict with the Constitution;**

**D: Please provide documentation on how I was being represented by the following taxes being assessed against my personal property:**

**E: Please provide documentation showing the method of assessment, the rules for assessment, the financial criteria used for this assessment, and copy of independent, certified appraisal of said property.**

**F: Please provide a complete record of all taxes paid by me on the property Listed below, since purchase on July, 2007, to include itemization of taxes for land, taxes for buildings on said land, or any other taxed item.**

**G: Please provide documentation of who actually signs /verifies /authenticates the assessments on real and personal property, and on any delinquency notices for unpaid taxes. An unsigned assessment is insufficient legal notice and a nullity, unless you can document and verify otherwise.**

59. Wayne County Treasurer Office **Raymond J Wojtowicz** continued to act under the color of Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999, although Coordinator David Szymanski's answer to plaintiffs FOIA issued on March 11, 2011, specified that: ***"There was no document, law, statutorily or constitutionally that exist in its possession that authorized Property Taxes"***.

60. The Color of law also means under "pretense of law". Wayne County Treasurer **Raymond J Wojtowicz** acted under the pretense of law set forth in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999, although Coordinator David Szymanski's answer to plaintiffs FOIA issued on March 11, 2011, specified that: **"There was no document, law, statutorily or constitutionally that exist in its possession that authorized Property Taxes"**.

67. Here, “the governmental foreclosing unit” deprived Plaintiffs of property by an arbitrary exercise of power. Specifically, Wayne County Treasurer and Raymond J Wojtowicz received written objection, pursuant to the rule, yet continued forth with a public auction whereby plaintiffs’ property was sold as a result of Wayne County Treasurer’s arbitrary exercise of power. “[W]hether challenged legislation violates principles of substantive due process depends on the nature of the right affected.” *Brinkley v Brinkley*, 277 Mich App 23, 30; 742 NW2d 629 (2007).

68. Equal protection of the law is guaranteed by both the federal and Michigan constitutions. *Brinkley v Brinkley*, 277 Mich App 23, 35; 742 NW2d 629 (2007). The purpose of equal protection is to ensure every person against intentional and arbitrary discrimination, whether occasioned by the express terms of a statute or by its improper execution. *Village of Willowbrook v Olech*, 528 US 562, 564; 120 S Ct 1073; 145 L Ed 2d 1060 (2000). The equal protection guarantee requires that persons under similar circumstances be treated alike, but there is no requirement that persons under different circumstances be treated the same. *El Souri v Dep’t of Social Servs*, 429 Mich 203, 207; 414 NW2d 679 (1987). However, in light of the “violators” actions, plaintiffs were denied their right to equal protection.

69. The applicable statute in this instance is 42 U.S.C. §1983, which states :—Every person who, under color of any statute, ordinance, regulation, custom or usage of any State ., subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or

immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law ....“In order to bring action under §1983, one must allege that defendant violated plaintiff’s constitutional rights and the deprivation must have been committed by a person acting under color of state law. *Barna v. City of Perth Amboy*, 42 F.3d 809, 816 (3rd Cir. 1994). Under the definition of acting under state law, the defendant in a §1983 action —must have exercised power ”possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law‘.“ *West v. Atkins*, 487 U.S. 42, 49 (1988) (quoting *U.S. v. Classic*, 313 U.S. 299, 326 (1941)). In addition, the Supreme Court has held that it is firmly established that a defendant acts under color of state law when he abuses the position given to him by that state. *West*, 487 U.S. at 49,

70. In this case, Wayne County Treasurer Raymond J Wojtowicz and/or the person appointed to decide whether the tax shall be levied under a law of this state, acted without jurisdiction, and did not impose the tax in question as a result of Wayne County Treasurer Raymond J Wojtowicz’s failure to answer plaintiffs FOIA. Further, Wayne County Treasurer Raymond J Wojtowicz never answered Plaintiffs written objections.

71. Wayne County Treasurer sold Plaintiffs’ property at Tax auction, at an unknown Time and Date to TUTA Homes LLC, which deprived Plaintiffs of property interests, through actions which were arbitrary (in the constitutional sense). The Wayne County Treasurer failed to provide plaintiffs with the law, assessment, appraisals, certification of the appraiser, or certification concerning its ability to tax Plaintiffs private property, and failed to respond to Plaintiffs written objections.

72. Thus, States and State agencies are entitled to Eleventh Amendment immunity in federal court, Edelman v. Jordan, 415 U.S. 651 (1974), but local governments have no immunity from damages flowing from constitutional violations, and may not assert the good faith of its agents as a defense to liability. Owen v. City of Independence, MO, 445 U.S. 621 (1980); Monell v. Dept. of Social Services of New York, 436 U.S. 658, 699-700 (1978). Further, state law sovereign immunity and state law limitations on damages do not protect local governments from liability under section 1983, Howlett v. Rose, 496 U.S. 356 (1990); Hamm v. Powell, 874 F.2d 766, 770 (11th Cir.1989), and state laws requiring pre-suit notification prior to initiating an action against the state or its subdivisions similarly do not apply Felder v. Casey, 487 U.S. 131 (1988). Therefore local governments are left in the unique and unhappy situation of being subject to suit without the benefit of any form of immunity.

### COUNT III

#### Slander of Title

73. On November 18, 2011, Wayne County Treasurer recorded a "Wayne County Treasurer Quit Claim Deed" at Liber 49474 Page 772-772. Said Deed was filed although:

1. No law authorizes the tax.
2. The person appointed to decide whether the tax shall be levied under a law of this state(Raymond J Wojtowicz) acted without jurisdiction, or did not impose the tax in question.
3. The property was exempt from the tax in question, or was not legally levied.
4. The tax has been paid within the time limited by law for payment or redemption.
5. The tax was assessed fraudulently.

**6. The description of the property used is indefinite or erroneous that the forfeiture was void.**

74. Wayne County Treasurer recorded a “Wayne County Treasurer Quit Claim Deed” despite Wayne County Treasurer **Raymond J Wojtowicz**’s actual knowledge of Plaintiffs Written Objections. Additionally, Wayne County Assessor Office failed to provide assessments, appraisal, laws, statutes , or documentation concerning their authority to directly or indirectly tax and/or assess taxes to Plaintiff private property when Plaintiffs requested pursuant to FOIA.

75. Wayne County Treasurer was the governmental foreclosing unit pursuant to Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999, who had actual knowledge of Written Objection. The Governmental foreclosing unit and/or Wayne County Treasurer maliciously and recklessly recorded a “Wayne County Treasurer Quit Claim Deed” although they had actual knowledge of Written objection.

76. Defendant Wayne County Treasurer and/or **the foreclosing governmental unit**, who was in receipt of Plaintiffs’ written objections, caused the recording of various documents, including but not limited to a “Wayne County Treasurer’s Quit Claim Deed”

77. The above mentioned Deed was created through the course of depriving Plaintiffs of notice their right to appeal. Plaintiffs property being sold for public use, depriving Plaintiff of compensation for Wayne County Treasure’s public use of the property. Further, Wayne County Assessor’s Office and Raymond J Wojtowicz failed to answer Plaintiff written objection and FOIA, which, in it totality, results in a claim for slander of title under Michigan Law.



**IV**

**QUITE TITLE ACTION**

**AND/OR RELIEF UNDER MCL 600.2932**

78. To quiet title in itself, the plaintiff must prove it has title to the property which is superior to the title claims of all other persons with an interest in the property. *Beulah Hoagland Appleton Qualifed Pers Residence Trust v Emmet County Rd Comm'n*, 236 Mich App 546, 600 NW2d 698 (1999). If plaintiff fails to make a prima facie case of title, judgment may be entered for defendant. *Ray v Bentley*, 39 Mich App 578, 197 NW2d 827 (1972). Once plaintiff makes a prima facie case, the defendant(s) must prove a superior right or title. *Beulah Hoagland*, supra. The court reviews "the whole situation and grants or withholds relief as good conscience dictates." *Republic Bank v Modular One LLC*, 232 Mich App 444, 591 NW2d 335 (1998), overruled on other grounds by *Stokes v Millen Roofing Co*, 466 Mich 660, 649 NW2d 371 (2002).

79. MCR 3.411(B) and (C) specify the information which must be contained in the complaint, including a legal description that describes the property with reasonable certainty (MCR 3.411(B)(1)); the interest of the plaintiff, defendant(s), and the facts establishing the superiority of plaintiff's claim (MCR 3.411(B)(2)); and a statement of, and the origin of, the title on which each pleader relies, including any written evidence of title (MCR 3.411(C)).

80. Plaintiffs has maintained possession of the property since the purchase of the property on July 13, 2007.

81. Defendant TUTA Homes LLC allegedly purchased Plaintiffs property, at a public Auction, held by Wayne County, at an unknown date.

82. Defendant TUTA Homes LLC cannot prove superior right or title via the “Wayne County Treasurer Quit Claim Deed”, in light of Wayne County openly admitting to its lack of authority , constitutionally, statutorily, or contractually to Tax plaintiff private Property.

83. The Wayne County Treasurer Quit Claim Deed is: (a) void, (b) the person appointed ( Raymond J. Wojtowicz ) to decide whether a tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question, (c) the property was exempt from the tax in question, or the tax was not legally levied, (d) the tax has been paid within the time limited by law for payment or redemption, and (e) the tax was assessed fraudulently.

84. Plaintiffs can prove that it has title to the property which is superior to the title claims of TUTA Homes LLC.

85. Thus, Plaintiff seeks to remove the cloud hindering its superior title to the property located at 22981 Leewin Street, of Detroit Michigan. Adverse possession has occurred as a result of TUTA Homes wrongful exercise of dominion over plaintiffs property , which results in a cause of action for recovery of the land or Quite Title Action.

**COUNT V**  
**TRESPASSING**

86. Plaintiffs raise the claim for trespass to chattels, also known as trespass to Personal property, based on Plaintiffs ability to show that Defendant TUTA Homes LLC's currently exercises wrongful dominion or control over the plaintiff's property located at 22981 Leewin St.

87. Plaintiffs has proof of Defendant TUTA Homes LLC's unauthorized direct or immediate intrusion of a physical and/or the tangible object onto land over which the plaintiff has a right of exclusive possession and has maintain possession all time relevant to this case.

88. Defendant TUTA Homes LLC's alleges to have purchased the property at a public tax auction, at an unknown date, in which Wayne County Treasure illegal and unconstitutionally assessed property taxes although:

- (a) No law authorizes the tax.
- (b) The person appointed to decide whether a tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question.
- (b) The property was exempt from the tax in question, or the tax was not legally levied.
- (c) The tax has been paid within the time limited by law for payment or redemption.
- (d) The tax was assessed fraudulently.
- (e) The description of the property used in the assessment was so indefinite or erroneous that the forfeiture was void.

89. The governmental foreclosing unit and/or Wayne County Treasurer' FOIA Coordinator, admitted that there was no constitutional law, statute, code, or enactment which authorized Wayne County Treasurer' taxation ability. However, the governmental foreclosing unit and/or Wayne County Treasurer held a public auction based the colorable laws set forth in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999., which deprived plaintiffs of interest in their property.

90. In "unusual circumstances," an agency or "public body" may delay its response to a FOIA request or appeal, but must provide notice and the date on which a determination is expected to be dispatched."5 U.S.C. § 552(a)(6)(B). The governmental foreclosing unit and/or Wayne County Treasurer via Coordinator David Szymanski, answered Plaintiffs FOIA request, informing Plaintiffs that there was no law, document, statute, code, authority, jurisdiction, or constitutional provision which authorized a direct or indirect taxation of plaintiff private property.

91. Further, Plaintiffs mailed Coordinator David Szymanski and also Wayne County Treasurer Raymond J Wojowicz, the Written Objects, and FOIA Request. However, Wayne County Treasurer Raymond J Wojtowicz never responded to plaintiffs **Written Objects**, Brief in support of FOIA request, and FOIA Request.

92. Additionally, Coordinator David Szymanski's response to Plaintiff's FOIA stated: *"As a courtesy a copy of this request has been sent to the appropriate department which*

*is the Wayne County Assessor's Office.*" However, the Wayne County Assessor's Office never provided methods of assessing personal property taxes, rules for assessment, financial criteria used for the alleged assessment, the independent appraisal report, the name and company name of the independent appraiser, or the legal certified status of said appraisal.

93. Ultimately, on Sunday November 13, 2011, a Non- business day, Agent Jonathan Deisier of Customer First Homes came to Plaintiffs' property to see if the property was occupied and harassingly informed the occupant that the property was sold, due to delinquent Property taxes, and eventually their office intend to do an eviction on the property, based on a fraudulently crafted and Unconstitutional tax Deed. The occupant gave copy of Coordinator David Szymanski's response to Plaintiff's FOIA to Agent Jonathan Deisier of Customer. However, with actual knowledge of the facts set forth in Coordinator David Szymanski's response to Plaintiff's FOIA, On 12-12-2011 TUTA Homes L.L.C via Agent Jonathan Deisier of Customer First Homes still mailed a Notice to Quit which ultimately threaten Plaintiffs Nephew.

94. Thus, unauthorized direct or immediate intrusion of a physical and/or the tangible object onto land over which the plaintiff has a right of exclusive possession has occurred which results in a cause of action for Trespassing.

#### COUNT VI

**MCL 211.78l MCL 211.78l Owner of extinguished recorded or unrecorded property interest; claim of failure to receive notice; action to recover monetary damages; right to sue not transferable.**

95. Under Sec. 78l. (1) If a judgment for foreclosure is entered under section 78k and all existing recorded and unrecorded interests in a parcel of property are extinguished as provided in section 78k, **the owner of any extinguished recorded or unrecorded interest** in that property who claims that he or she did not receive any notice required under this act shall not bring an action for possession of the property against any subsequent owner, but may only bring an action to recover monetary damages as provided in this section.

96. This action to recover monetary damages under this section is brought within 2 years after a judgment for foreclosure is entered under section 78k.

97. Wayne County Treasure and TUTA Homes LLC exercises Wrongful dominion over plaintiffs' property, based on Wayne County's inability to Constitutionally tax plaintiffs' private property. Thus, all monetary damages recoverable under this section shall be determined as of the date a judgment for foreclosure is entered under section 78k and **shall not exceed the fair market value of the interest in the property held by the person bringing the action under this section on that date, less any taxes, interest, penalties, and fees owed on the property as of that date.**

98. The Wayne County Treasure and TUTA Homes LLC has never compensated

**Plaintiffs' fair market value for the property.**

99. Plaintiffs' property previously appraised at \$170,000.00. However, Wayne County Treasure & TUTA Homes LLC allegedly maintains an interest in the amount of \$18,000.00 which is obsolete as appose to Plaintiffs interest.

100. Furthermore, plaintiff has the right to sue for monetary damages under this section, in the amount of **the fair market value of the interest in the property, less any taxes, interest, penalties, and fees allegedly owed on the property as of this date.**

101. Thus, plaintiff seeks a judgment for all monetary damages recoverable under this Section, including, but not limited to the fair market value of Plaintiffs interest in the Property which totals the amount not less than **\$170,000.00 in US currency.**

#### **COUNT VII**

#### **EQUITABLE RELIEF TO SET ASIDE THE WAYNE COUNTY TREASURER QUIT CLAIM DEED**

102. This is an action to set aside a Wayne County Treasurer's Deed to certain real property situated in Wayne, Michigan , addressed as 22981 Leewin, of Detroit, Michigan.

103. On November 18, 2011 a Wayne County Treasurer Quit Claim Deed was recorded against the mentioned Property. The foreclosure sale was not conducted at the specified date set forth in Plaintiff's Notice.

104. The particular question whether to set aside a foreclosure sale is one resting

“largely in the discretion of the trial court” and this Court should “not interfere unless it satisfactorily appears such discretion has been misused.” *Nugent v Nugent*, 54 Mich 557, 559-560; 20 NW 584 (1884). “Equity does not relieve from a unilateral mistake of fact. The mistake must be mutual and common to both parties, and the proof thereof must be clear and satisfactory.” *McCreary v Shields*, 333 Mich 290, 300; 52 NW2d 853 (1952) (Boyles, J., dissenting, citing *Emery v Clark*, 303 Mich 461, 471-472; 6 NW2d 746 (1942); *Holda v Glick*, 312 Mich 394, 404; 20 NW2d 248 (1945).

105. “Where a valid legislative act has determined the conditions on which rights shall vest or be forfeited, and there has been no fraud in conducting the legal measures, no court can interpose conditions or qualifications in violation of the statute. The parties have a right to stand upon the terms of the law.” [Carlisle, 203 Mich at 608.]

106. However, in this case, Wayne County Assessor’s Office and the Wayne County Treasurer Office never provided methods of assessing personal property taxes, rules for assessment, financial criteria used for the alleged assessment, the independent appraisal report, the name and company name of the independent appraiser, or the legal certified status of said appraisal when Plaintiffs requested pursuant to the FOIA .

107. Additionally, in Coordinator David Szymanski’s response to Plaintiff’s FOIA, Coordinator David Szymanski stated that his office possessed no document, law, statute, code, authority, jurisdiction, or constitutional provision which authorized a direct or indirect taxation of plaintiff private property.



108. As a result of the admissions of Coordinator David Szymanski, The Wayne County Treasurer Quit Claim Deed is (a) void, (b) the person appointed ( Raymond J. Wojtowicz) to decide whether a tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question, (c) the property was exempt from the tax in question, or the tax was not legally levied, and (d) the tax was assessed fraudulently.

109. Also, as a result of Raymond J. Wojtowicz and Wayne County Assessors Office's *failure to answer Plaintiffs FOIA*, the Wayne County Treasurer Quit Claim Deed is (a) void, (b) the person appointed ( Raymond J. Wojtowicz) to decide whether a tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question, (c) the property was exempt from the tax in question, or the tax was not legally levied, and (d) the tax was assessed fraudulently.

### **RELIEF SOUGHT**

110. The rule of law requires this court's order that Wayne County Treasurer Raymond J. Wojtowicz and the Wayne County Assessors Office's be compelled to state that Wayne County Treasurer and the Wayne County Assessors Office's has no constitutional authority to Tax Plaintiff's private property directly nor indirectly or be found in contempt. See 5 USC 552, vi(g). Wayne County Treasurer Raymond J. Wojtowicz and the Wayne County Assessors Office's has shown contempt under the Constitution of The United States and FOIA by failing or refusing to show its taxation authority as prescribed by the Constitution which requires to find that Wayne County

Treasurer Raymond J. Wojtowicz and the Wayne County Assessors Office's conspiracy to sale Plaintiff's property although Wayne County Treasurer Raymond J. Wojtowicz and the Wayne County Assessor's Office did not have and/or show its constitutional authority to tax Plaintiffs' private property, which is Fraud, and precludes the alleged purchaser TUTA HOMES LLC from obtaining a court's jurisdiction, for the purpose of evicting Plaintiffs from 22981 Leewin of Detroit Michigan.

WHEREFORE, Plaintiff prays that a judgment be entered against the defendants wherein in an amount which will fairly and adequately compensate plaintiffs for their injuries, damages and losses; and for any and all other available damages at law or as deemed appropriate by the honorable Court. Moreover, plaintiff prays that the Court will award any interest as permitted by law, costs of this action, and for any further relief as this Court may deem just and proper, including but not limited to:

1. That defendants TUTA Homes LLC compensate Plaintiffs with the full market value of the property, pay all court costs, and fees so wrongfully sustained in this matter.
2. That Plaintiffs is entitled to equitable relief to set aside the Tax Deed and/or removal of the Tax lien.
3. Award Plaintiffs damages due to Wayne County Treasurer and Wayne County Assessor office violation of the FOIA, 5 U.S.C. § 552(a)(6)(B).
4. Award Plaintiffs damages due to Agent Jonathan Deisier's Sunday, November 13, 2011 Trespass upon plaintiffs' property to harass Plaintiffs Nephew.

5. Award Plaintiffs damages due to Wayne County Treasurer's violation of **42 USC § 1983**.
6. Award Plaintiffs damages as a result of the emotional distress caused as a result of the fraudulent collection activities of defendants.
7. Award Plaintiffs actual damages as a result of FOIA and other violations named herein.
8. Award plaintiffs damages, totaling an amount not less than \$7 Million Dollars in US Currency.

Prepared and submitted by: Ralph Claxton  
RALPH CLAXTON

## EXHIBIT A



71924436001000236251



COUNTY OF WAYNE  
**RAYMOND J. WOJTOWICZ**  
 TREASURER  
 P. O. Box 33555  
 Detroit, Michigan 48232-5555

Page 1 of 2

Date: December 2010 22018428.  
 \*\*\*\*\*AUTO\*\*5-DIGIT 48219 116/1/2 023569

RALPH CLAXTON  
 23040 LEEWIN ST  
 DETROIT, MI 48219-1117



0122018428.



### **NOTICE OF PROPERTY TAX DELINQUENCY**

PROPERTY ADDRESS: 22981 LEEWIN 48219

PARCEL ID: 22018428.

LEGAL DESCRIPTION: S LEEWIN 8 E 9.08 FT 7 SUNNYVALE SUB L74 P79 PLATS, W C R 22/774 63.58 X 120.12A

	IF PAID IN DEC. 2010	OR	IF PAID IN JAN. 2011	OR	IF PAID IN FEB. 2011
<b>TOTAL TO AVOID FORECLOSURE:</b>	<b>\$10181.41</b>		<b>\$10286.19</b>		<b>\$10391.00</b>

Payments (full or partial) may be made on-line, in person, or by mail. Checks should be payable to Raymond J. Wojtowicz, Wayne County Treasurer. Please return the bottom portion of this statement with your payment in the return envelope provided. A receipt will be mailed to you. If you have any further questions, please visit our website at: [www.treasurer.waynecounty.com](http://www.treasurer.waynecounty.com) or call our Tax Information Desk at (313) 224-5990.

**IF THESE TAXES HAVE RECENTLY BEEN PAID, PLEASE DISREGARD THIS NOTICE**

***IMPORTANT: SEE REVERSE SIDE FOR YOUR HEARING DATES***

(313) 224-5990 Monday – Friday 8:00 a.m - 4:00 p.m.

For additional information or to pay on line visit: [www.treasurer.waynecounty.com](http://www.treasurer.waynecounty.com)

PLEASE DETACH AND RETURN LOWER PORTION WITH YOUR PAYMENT IN THE ENCLOSED ENVELOPE



## IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE, STATE OF MICHIGAN

Page 2 of 2

In the Matter of the petition by the  
Wayne County Treasurer for Foreclosure of  
Certain Lands for Unpaid property Taxes

Hon. Virgil C. Smith, Jr.  
Circuit Court Case Number: 10-006738 CH

**NOTICE OF SHOW CAUSE HEARING, JUDICIAL FORECLOSURE HEARING  
AND REQUEST FOR PAYMENT**

A petition has been filed in Wayne County Circuit Court by the Wayne County Treasurer regarding the property on the reverse side of this notice. You could lose your interest in the property if the court enters a judgment approving the petition.

**If a judgment is entered, you have the right to retain the property by paying the unpaid forfeited 2008 and/or prior years delinquent taxes, interest, penalties, and fees at any time prior to March 31, 2011. Unless you pay the delinquent taxes, interest, penalties, and fees by the March 31, 2011, by state law, you will lose your interest in the property and the title will transfer to the Wayne County Treasurer.**

**Two hearings will take place before the judgment becomes final:**

1. **SHOW CAUSE HEARING** is scheduled for the parcel ID shown on the front side of this notice for , at 9:00 a.m. at Cobo Hall, Riverview Ballroom, 1 Washington Blvd., Detroit, MI 48226. The Show Cause Hearing allows you the opportunity to explain why title to the property should not transfer to the Wayne County Treasurer. You may appear at The Show Cause Hearing in person, through an agent or in writing.
2. **NOTICE OF JUDICIAL FORECLOSURE HEARING** will be held pursuant to MCL 211.78k on **February 24, 2011** commencing at 9:30 a.m. before Chief Judge Virgil C. Smith, Jr. in the Wayne County Circuit Court, 701 Coleman A. Young Municipal Center, 2 Woodward Ave., Detroit, Michigan 48226. **If you claim an interest in the property and want to contest the Petition, you must file written objection at least fourteen (14) days prior to the hearing date with Chief Judge Smith's Court Clerk, and provide the Wayne County Treasurer with a copy of the written objection either by regular mail or by hand delivery c/o Wayne County Corporation Counsel/Objections, 400 Monroe St., Suite 660 Detroit, Michigan 48226.** The written objection must be filed and received by the Court and Corporation Counsel on or before **February 10, 2011**. If no objection is filed, or if you fail to appear at the hearing after an objection filed, the Court may enter a Judgment of Foreclosure. If you have an interest in the property, listed on the reverse side of this notice, you could lose your interest as a result of the foreclosure proceeding brought pursuant to MCL 211.78k.

You may dispute the validity or correctness of the unpaid delinquent taxes, interest, penalties, and fees for one or more of the following reasons:

1. No law authorizes the tax.
2. The person appointed to decide whether the tax shall be levied under a law of this state acted without jurisdiction, or did not impose the tax in question.
3. The property was exempt from the tax in question, or was not legally levied.
4. The tax has been paid within the time limited by law for payment or redemption.
5. The tax was assessed fraudulently.
6. The description of the property used is indefinite or erroneous that the forfeiture was void.

**IF NO OBJECTION IS FILED, OR IF YOU FAIL TO APPEAR FOR THE HEARING AFTER FILING AN OBJECTION, THE COURT MAY ENTER A JUDGMENT OF FORECLOSURE.**

## EXHIBIT B

RALPH AND MELAINE CLAXTON

23040 LEEWIN

DETROIT, MI 48219

COUNTY OF WAYNE

RAYMOND J. WOJTOWICZ

P.O. BOX 33555

DETROIT, MICHIGAN 48232-5555

DAVID SZYMANSKI

CHIEF DEPUTY TREASURER

WAYNE COUNTY TREASURER'S OFFICE

400 MONROE, SUITE 550

DETROIT, MI 48226

**PROPERTY ADDRESS: 22981 LEEWIN DETROIT, MICHIGAN**

**WRITTEN OBJECTION AND FOIA REQUEST CONCERNING TAX YEARS 2007, 2008,**

**2009**

Pursuant to the Freedom of Information Act, 5 U.S.C. subsections 552, I am requesting  
Information, records , assessments, or contracts concerning a breach which gives rise for a



public auction of my personal property. I owned the described property listed in your office's assessment letter, which gives no breakdown of how these funds will be allocated. I believe the following requested documentation is crucial for my record. However, Failure to respond is a violation of FOIA as described above, and if no response is made by you, then these conclusions shall be deemed to be admitted by you, and it shall be construed as "bad faith" and fraud as ruled in *McNALLY v. UNITED STATES*, 483 U.S. 350, 372 (1987), *supra*, and; "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities. If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately." *U.S. v. Tweel*, 550 F.2d 297, 299. See also *U.S. v. Prudden*, 424 F.2d 1021, 1032; *Carmine v. Bowen*, 64 A. 932.

This objection and FOIA request is in no way shape or form an attempt to avoid a lawfully owed debt. The reason this objection and request is being set forth by me is because of the lack of understanding concerning the assessment. In addition to the vague assessment letter, If you...examined [The 16th Amendment] carefully, you would find that a sufficient number of states never ratified that amendment." - U.S. District Court Judge James C. Fox 2003. What the IRS website and the Government in general refuse to recognize is that the Sixteenth Amendment to the Constitution of the United States was never ratified by a majority of the States. Only two or less States properly ratified the proposed Amendment. In February 1913 Secretary of State Knox falsely declared the 16th Amendment ratified and the government has

been unlawfully demanding taxes ever since. The 16th Amendment allegedly entitled the government to collect uneven taxes. The U.S. Constitution does not preclude taxation it dictates that tax be uniform for everyone, except Indians, and apportioned equally across all the States:

**Article I, Section 2: "..Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct."**

The 16th Amendment is claimed by the federal government in the federal territory of Washington, D.C. to authorize their private collection company, the IRS, to collect "income tax". However if the 16th was not properly ratified the IRS has no legal authority to collect tax. The same applies to local County and State tax collectors who are also bound by the U.S. Constitution. After an exhaustive year long search of legislative records in 48 sovereign States conducted by Bill Benson, (Alaska & Hawaii were not admitted into the Union until after 1913). the only record of the 16th Amendment ever having been confirmed was a fraudulent proclamation made by the Secretary of State Philander Knox on February 25, 1913, wherein he simply declared it to be "in effect", but never stated that it was lawfully ratified. Even if the 16th Amendment were properly ratified, according to Article 1, Section 9 of the Constitution, it has always been unconstitutional for the U.S. Federal Government to directly tax "We the People" in their property, wages, salaries, or earnings. U.S. Supreme Court Judges repeatedly rejected any claims that the 16th Amendment changed the constitutional limits on direct taxes: *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, The Supreme Court ruled that the 16th "created no new

power of taxation" and that it "did not change the constitutional limitations which forbid any direct taxation of individuals". An argument often made by judges attempting to ignore the fact of the failure to ratify the 16th, is that precedence under Common Law now exists because the government has been mugging the public for so long and this somehow legalizes the IRS and the local County Tax collector. However, the U.S Constitution is higher law than the precedence of Common Law, which in itself represents the will of the people and not the will of the government. Article I, Section 2 of the Constitution dictates that the IRS and the local County Tax collector are collecting tax unlawfully. Bill Benson's exhaustive investigation of the history of the 16th Amendment revealed the following defects and prove the 16th horribly failed to receive the necessary three-fourths of the States approval. To have been ratified 36 of the 48 States would have had to properly ratify the 16th Amendment. Naturally for something as significant as the U.S. Constitution, ratification of an Amendment is extremely important and serious, typos, spelling and anything that is not an exact copy of the Amendment is utterly unacceptable, this is no pre-school project.

## **Record of Failed Ratification of 16th Amendment As Recorded By Secretary Of State:**

### **KEY:**

- 01- Not ratified by state legislature, and so reported
- 02- Not ratified by state legislature, but reported as ratified
- 03- Missing or incomplete evidence of ratification, but reported as ratified
- 04- Failure of Governor or other official to sign, although required by State Constitution
- 05- Other violation of State Constitution in ratification

process

06- Other procedural irregularity making ratification doubtful

07- Approval, but with change in wording, accepted as ratification of original version

08- Approval, but with change in spelling, accepted as ratification of original version

09- Approval, but with change in capitalization, accepted as ratification of original version

10- Approval, but with change in punctuation, accepted as ratification of original version

State	01	02	03	04	05	06	07	08	09	10
Alabama							1		1	1
Arizona					1	1	1			1
Arkansas					1	1	1		1	1
California					1	1	1		1	1
Colorado					1	1	1			1
Connecticut	1									
Delaware			1							
Florida	1									
Georgia					1	1	1		1	1
Idaho				1	1	1	1		1	1
Illinois					1		1		1	
Indiana						1	1		1	
Iowa				1		1			1	
Kansas					1				1	
Kentucky		1		1	1	1	1		1	1
Louisiana					1	1	1			1
Maine									1	1
Maryland					1	1				1
Massachusetts					1	1			1	1
Michigan			1		1		1		1	1
Minnesota				1		1				

Mississippi					1	1	1	1	1	1
Missouri				1	1	1	1		1	
Montana					1	1			1	1
Nebraska						1			1	
Nevada			1						1	1
New Hampshire			1							
New Jersey					1	1			1	
New Mexico					1	1				
New York						1			1	1
North Carolina									1	1
North Dakota					1		1			
Ohio						1			1	
Oklahoma						1	1		1	
Oregon	1								1	
Pennsylvania	1									
Rhode Island	1									
South Carolina						1	1		1	1
South Dakota			1			1	1		1	1
Tennessee		1	1		1	1	1			
Texas			1		1	1	1		1	1
Utah	1									
Vermont			1		1	1			1	1
Virginia	1									
Washington				1	1		1		1	1
West Virginia					1	1				1
Wisconsin							1		1	1
Wyoming		1	1		1	1			1	1
<b>Total</b>	<b>7</b>	<b>3</b>	<b>9</b>	<b>6</b>	<b>25</b>	<b>29</b>	<b>22</b>	<b>1</b>	<b>31</b>	<b>27</b>
<b>Additional</b>	<b>7</b>	<b>3</b>	<b>7</b>	<b>5</b>	<b>16</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>
<b>Ratification Failures Accumulated</b>	<b>7</b>	<b>10</b>	<b>17</b>	<b>22</b>	<b>38</b>	<b>44</b>	<b>46</b>	<b>46</b>	<b>48</b>	<b>48</b>
<b>KEY</b>	<b>01</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>

"If money is wanted by rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility." Journals of the Continental Congress. 26

October, 1774©1789. Journals 1: 105©13. All government officials and agencies, including all State legislatures, are bound by the Constitution and must NOT create any defacto laws which counter the Constitution:

**"This Constitution, and the laws of the United States which shall be made in pursuance thereof;... shall be the supreme law of the land; and the judges in every state shall be bound thereby... The Senators and Representatives and members of the State legislature, and all executive and judicial officers of the United States and the several States, shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." The Constitution of the united States of America, Article VI, Cl 2, 3.**

"The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution." Reid v Covert 354 US 1, 1957. Any laws created by government which are repugnant to the Constitution carry NO force of law and are VOID: "The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution JTM) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886). See also Bonnett v Vallier, 136 Wis 193, 200; 116 NW 885, 887 (1908); State ex rel Ballard v Goodland, 159 Wis 393, 395; 150 NW 488, 489 (1915); State ex rel Kleist v Donald,

164 Wis 545, 552-553; 160 NW 1067, 1070 (1917); State ex rel Martin v Zimmerman, 233 Wis 16, 21; 288 NW 454, 457 (1939); State ex rel Commissioners of Public Lands v Anderson, 56 Wis 2d 666, 672; 203 NW2d 84, 87 (1973); and Butzlaffer v Van Der Geest & Sons, Inc, Wis, 115 Wis 2d 539; 340 NW2d 742, 744-745 (1983).

"Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void;" and the courts, as well as other departments, are bound by that instrument." Marbury v Madison, 5 US 1803 (2 Cranch) 137, 170?180, and NORTON v. SHELBY COUNTY, 118 U.S. 425. "When an act of the legislature is repugnant or contrary to the constitution, it is, ipso facto, void." 2 Pet. R. 522; 12 Wheat. 270; 3 Dall. 286; 4 Dall. 18 "[p]owers not granted (to any government) are prohibited." United States v. Butler, 297 U.S 1, 68 (1936). "Insofar as a statute runs counter to the fundamental law of the land, (constitution) it is superseded thereby." (16 Am Jur 2d 177, Late Am Jur 2d. 256) ".all laws which are repugnant to the Constitution are null and void' (Marbury v Madison, 5 US 1803 (2 Cranch) 137, 174, 170)."Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." - Miranda v. Arizona, 384 U.S. 436, 491."The claim and exercise of a constitutional right cannot be converted into a crime." Miller v. U.S., 230 F 2d 486, 489."There can be no sanction or penalty imposed upon one because of this exercise of Constitutional rights."- Sherar v. Cullen, 481 F. 945.**To disregard Constitutional law, and to violate the same, creates a sure liability upon the one involved:** "State officers may be held personally liable for damages based upon actions taken in their official capacities." Hafer v. Melo, 502 U.S. 21 (1991).



"Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of limitations upon his authority." The United States Supreme Court, *Federal Crop Ins. Corp. v. Merrill*, 332 US 380-388 (1947)

"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. United States Supreme Court reminds us in *Hale v. Henkel*, 201 U.S. 43 (1906): "The legal right of an individual to decrease or ALTOGETHER AVOID his/her taxes by means which the law permits cannot be doubted" – *Gregory v. Helvering*, 293 U.S. 465 "The fact is, property is a tree; income is the fruit; labour is a tree; income the fruit; capital, the tree; income the 'fruit.' The fruit, if not consumed (severed) as fast as it ripens, will germinate from the seed... and will produce other trees and grow into more property; but so long as it is fruit merely, and plucked (severed) to eat... it is no tree, and will produce itself no fruit." *Waring v. City of Savannah*. 60 Ga. 93, 100 (1878).

The point being made is that the tree (private property, land, wages, salaries, compensation) is NOT taxable, while the "fruit" (or "income" FROM said property or wages) of the tree CAN possibly be taxed, (but only according to constitutional provisions). Tax upon



income derived from, say, rental property, CAN be taxed, but ONLY according to the Constitution, because the tax does NOT diminish "tree," the principal, or lessen the value of the person or property. Property taxation diminishes the "tree" itself, (the wealth of the person) thereby creating a possible situation where the tree could disappear because of the tax. Property taxation must fall within constitutional guidelines set forth for all People of our nation. To be applied other than under Constitutional parameters is to make such a law or application null and void and is a violation of our constitutional rights. Direct taxes must be "**apportioned** among the several states which may be included within this Union". [See Article I, Section 2, Clause 3 and Article 1, Section 9, Clause 4.] These include taxes directly upon people or personal property. "...all duties, imposts and excises [indirect taxes], shall be **uniform** throughout the United States". [See Article I, Section 8, Clause 1.] "Apportionment" means according to the census... the actual number of people in the county or state. "Uniform throughout the United States" means the tax is the same everywhere, such as alcohol, tobacco and other excise taxes, where all Americans pay the same tax regardless of the state they are in. "Thus, in the matter of taxation, the Constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely: the rule of apportionment as to direct taxes and the rule of uniformity as to duties, imposts and excises." ...determining that, the classification of Direct adopted for the purpose of rendering it impossible for the government to burden, by taxation, accumulation of property, real or personal, except subject to the regulation of apportionment..." Pollock v. Farmers' Loan & Trust Co. 158, U.S. 601, at 637 (1895). "The name of the tax is unimportant that it is the substance and not the form which controls;" that the limitations of the constitution cannot be 'frittered away' by calling a tax indirect when it is in fact direct." Pollock v. Farmers' Loan and Trust Co., 157 U.S. 429, 580?1, 583 (1895). "That

decision affirms the great principle that what cannot be done directly (direct taxation) because of constitutional restriction cannot be accomplished indirectly by legislation which accomplishes the same result." *Fairbanks v. U.S.* 181 U.S. 283, 294 (1901). "If it be true by varying the form the substance may be changed, it is not easy to see that anything would remain of the limitations of the constitution, or of the rule of taxation and representation, so carefully recognized and guarded in favor of the citizen of each state. But constitutional provisions cannot be thus evaded. It is the substance, and not the form, which controls, as has been established by repeated decisions of this court." *Id.* At 296.

The Constitution of the United States of America and Case law shows that capitation taxes and taxes on my personal private property are in the category of direct taxes as being applied to me today by Wayne County, but which must be apportioned among the States as required by the United States Constitution if it is a direct tax. (See Supreme Court Case law – *Penn Mutual Indemnity Co. v. C.I.R.*, 277 F.2d 16, 19-20 (3rd Cir. 1960); *Steward Machine Co. v. Davis*, 301 U.S. 548, 581-582 (1937)). The Constitution of the United States of America and Case law shows that since capitation taxes and taxes on my personal private property must be apportioned among the States in accordance with the United States Constitution, and my personal private property tax is NOT being legally apportioned among the States (or Colorado state) by Wayne County, they must, therefore, be in the category of indirect taxes, which are taxes imposed on the happening of an event or activity." Direct taxes bear immediately upon persons, upon possessions and enjoyments of rights. Indirect taxes are levied upon the happening of an event..." *Knowlton v. Moore*. 178 U.S. 41. See also, *Tyler v. United States*, 281 U.S. 497, at 502 (1930) "A tax laid upon the happening of an event as distinguished from its tangible fruits,

is an indirect tax..." Tyler v. U.S. 497 at pg 502 (1930)"A tax levied upon property because of its ownership is a direct tax, whereas one levied upon property because of its use is an excise, duty or impost." Manufactures' Trust Co. vs. U.S., 32 F. Supp. 289."A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." Murdock vs. Com. of Penn., 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943) All Citizens have the right to a home and personal property, and this property cannot be taxed unless in accordance with the two forms of Constitutional taxation mentioned above. "Keeping in mind the well settled rule, that the citizen is exempt from taxation, unless the same is imposed by clear and unequivocal language, and that where the construction of a tax is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid." Spreckles Sugar Refining Co. vs. McLain: 192 US 39. In Wayne County records or documentation, I do not find any tax imposed on any activities I am involved in as rights under the Constitution, nor do I find a section in the Michigan Statutes or county law that makes me subject to or liable for any direct or indirect, unconstitutionally applied private property tax.

Therefore: (1). I am not in receipt of any documentation showing what type of taxes I was being assessed for, direct, indirect or named other type of tax. (2). I am not in receipt of any documentation showing Wayne County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, since it was being applied as neither direct nor indirect according to law. (3). I am not in receipt of any documentation showing I was legally liable for private property taxes applied contrary to the Constitution of the U.S.A. (4). I am not in receipt of any documentation showing the name of the responsible party who authorizes said personal property taxes, and their jurisdiction on this

issue, nor signature and printing of that name included in the document. (5). I am not in receipt of any documentation showing why I was liable for the 2007, 2008, or 2008, itemized taxes being assessed against me, nor documentation showing the benefits I personally received for each of these taxes... i.e. how was I being represented by these taxes. (6). I am not in receipt of any documentation showing the method of assessment, the rules for assessment, the financial criteria used for this assessment or copy of any independent, certified appraisal of said property. (7). I am not in receipt of any documentation showing the name and company name of independent appraiser, or the legal, certified status of said appraisal.

### **FOIA REQUEST**

1. Documentation regarding which type of tax my private property County taxes fell under; "direct" or "indirect," or other taxing category, naming the specific category.
2. Please provide certified documents showing Wayne County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, including on land and home, since it was being applied as neither direct nor indirect.
3. Please provide documentation of who the responsible party is who authorized said taxes, and their jurisdiction on this issue, to include signature and printing of that name on this document. There must be statutory law (positive law) that exists which allows this taxation, but it cannot be in conflict with the Constitution;
4. Please provide documentation on how I was being represented by the following taxes being assessed against my personal property:  
  
(List all taxes on your assessment)
5. Please provide documentation showing the **method of assessment**, the rules for assessment, the financial criteria used for this assessment, and copy of independent, certified appraisal of said property.

6. Please provide a complete record of all taxes paid by me on the property listed below, since purchase on January 16, 2004, to include itemization of taxes for land, taxes for buildings on said land, or any other taxed item.

7. Please provide documentation of who actually signs/verifies/authenticates the assessments on real and personal property, and on any delinquency notices for unpaid taxes. An unsigned assessment is insufficient legal notice and a nullity, unless you can document and verify otherwise.

My right to not be taxed illegally or unconstitutionally stands firm in law, but this right appears to me to have been violated through forced private property taxation by Wayne County, and the exercise of my right to not be illegally taxed can be "converted into a crime" for not paying these taxes.

### CONCLUSION

It is a crime for any government office or any official to auction or otherwise sell in any way, private or business property of any individual WITHOUT FIRST HAVING DUE PROCESS OF LAW, to determine the cause of action and the recourse in law. The sale of any property outside this means is illegal, and all those involved with such a sale, including those purchasing said property, are personally liable for damages, and subject to criminal charges under Racketeering (RICO) laws, and for violation of civil and Due Process rights. All government officials have the "Greater Duty" to know the law and comply with it, and if you are involved with such an auction without Due Process for the owner, you are in breach of your fiduciary duty and you can be held personally liable by those harmed by this fraud. Any challenge to property taxation or property sale made by any citizen requires you to respond, point by point, and to "prove up" your position in law. The issue of real and personal property taxation is long overdue to be challenged. The premise is that for a personal property tax on a free sovereign, private individual to be legal, it must be Constitutional, and applied as the Constitution regulates it. Any other means makes the tax void in law. All citizens have the right to know why they are being taxed, and to know that it is a legal taxation which represents their interests. Paying taxes without knowing the law and your rights makes you nothing more than a slave.

Article 1, Section. 8. Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; Article I, Section. 9. Clause 4: No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. The Texas Supreme Court, in **Neeley v. West Orange-Grove Consolidated Independent School District**, No. 04-1144 (Nov. 22, 2005), held that Texas school districts illegally use property taxes to pay for public education. The court ordered that the state must find a new way to finance schools by June 1 or classrooms will not open for the fall term. Property tax, is illegal, unconstitutional and tyrannical in it's existence. A property tax is by definition, regardless of its use or where its directed, a claim by the state of ownership. You see, if there is the possibility to potentially losing something you own because you have been amiss in payments, you do not really own it. The Property tax is unconstitutional because it does not allow us to live in a truly free way and secure the blessings to our posterity. I quote the preamble. "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence,[1] promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."...please make note of...and secure the Blessings and Liberty to ourselves and our Posterity...in that statement, you can infer that my property, i.e. wealth, land, possessions, is what the Framers had in mind in securing personal property to be passed down to the next generation ...a truly free society owns their property outright.

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MELAINE CLAXTON

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

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RALPH CLAXTON

## EXHIBIT C



# RAYMOND J. WOJTOWICZ

## Wayne County Treasurer

DAVID J. SZYMANSKI

Chief Deputy

CHRISTA J. MCLELLAN

Deputy/Financial Services

ERIC R. SABREE

Deputy/Land Management

March 10, 2011

Ralph and Melaine Claxton  
23040 Leewin  
Detroit, MI 48219

Re: Freedom of Information Act Request  
Parcel #22-018428 (22981 Leewin, Detroit)

Dear Mr. and Ms. Claxton:

The above-described Freedom of Information Act ("FOIA") request for public records from the Office of the Wayne County Treasurer has been received and reviewed.

In your request you sought,

*"(1) I am not in receipt of any documentation showing what type of taxes I was being assessed for, direct, indirect or named other type of tax."*

Response: The Office of the Wayne County Treasurer is uncertain as to what categories you refer to. As to "direct" or "indirect" no such documents exist.

*"(2) I am not in receipt of any documentation showing Wayne County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, since it was being applied as neither direct nor indirect according to law."*

Response: The Office of the Wayne County Treasurer is not in possession of any such certified document.

*"(3) I am not in receipt of any documentation showing I was legally liable for private property taxes applied contrary to the Constitution of the U.S.A."*

Response: The Office of the Wayne County Treasurer has no such document.

*"(4) I am not in receipt of any documentation showing the name of the responsible person who authorizes said personal property taxes, and their jurisdiction on this issue, nor signature or printing of that name included in the document"*

Response: The Office of the Wayne County Treasurer has no such document.



Ralph and Melaine Claxton  
Page Two  
March 10, 2011

*"(5) I am not in receipt of any documentation showing why I was liable for the 2007, 2008, or 2008, itemized taxes being assessed against me, nor documentation showing the benefits I personally received for each of these taxes...i.e. how was I being represented by these taxes."*

Response: Assessments are not handled by the Office of the Wayne County Treasurer; and, therefore, this office has no such document. As a courtesy a copy of this request has been sent to the appropriate department which is the Wayne County Assessor's Office.

*"(6) I am not in receipt of any documentation showing the method of assessment, the rules for assessment, the financial criteria used for this assessment or copy of any independent, certified appraisal of said property."*

As this a request pursuant to the Freedom of Information Act (FOIA) and requires the production of documents in existence, it is not appropriate for this office to create a document for purposes of a response. As a courtesy, however, we have produced and attached a record of payments made.

*"(7) I am not in receipt of any documentation showing the name and company name of independent appraiser, or the legal, certified status of said appraisal."*

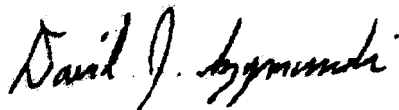
Response: Assessments are not handled by this office. As a courtesy a copy of this request has been sent to the appropriate department which is the Wayne County Assessor's Office. As to delinquency notices, a sample is attached indicating the signing party.

It has been determined by the primary basis of your request that:

The majority of your FOIA request does not pertain to the Office of the Wayne County Treasurer. However, the majority of your inquiry falls under the Wayne County Assessors Office and as notated above your request has been forwarded to that department.

Sincerely,

RAYMOND J. WOJTOWICZ  
Wayne County Treasurer



Chief Deputy Treasurer  
cc: FOIA Coordinator (via facsimile)  
Attachment  
RJW:DJS:cah

## EXHIBIT D

Approved, SCAO

STATE OF MICHIGAN	NOTICE TO QUIT TERMINATION OF TENANCY Landlord-Tenant	
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TO: OCCUPANT  
22981 Leewin  
Detroit MI 48219

1. Your landlord/landlady, TUTA Homes L.L.C, is terminating your tenancy and wants to evict you from:

Address or description of premises rented (if different from mailing address):

because ☐ your tenancy has ended. ☐ other: Do not wish to rent out.

2. You must move by 1/9/12 or your landlord/landlady may take you to court to evict you.  
Date (\*see note)
3. If your landlord/landlady takes you to court to evict you, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe you have a good reason why you should not be evicted, you may have a lawyer advise you. Call him or her soon.

12/8/11  
Date

Josette Ruil  
Signature of owner of premises or agent  
24001 Southfield rd. suite 100  
Address

Southfield MI 48075  
City, state, zip Telephone no.

\*NOTE: Except for a 7-day notice given under the authority of MCL 600.5714(1)(a), a 24-hour notice given under the authority of MCL 600.5714(1)(b), or a 90-day notice given under the authority of Public Law No. 111-22, § 702, 123 Stat 1660 after foreclosure of the premises, if the lease agreement does not state otherwise, the landlord/landlady must give notice equal in time to at least one rental period.

CERTIFICATE OF SERVICE

I certify that on 12/8/11 I served this notice on OCCUPANT  
Date Name

- by ☐ delivering it personally to the person in possession.  
☐ delivering it on the premises to a member of his/her family or household or an employee of suitable age and discretion with a request that it be delivered to the person in possession.  
☒ first-class mail addressed to the person in possession.

SUSAN J. DE FRANK  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE

MY COMMISSION EXPIRES Mar 6, 2014

ACTING IN COUNTY OF

DC 100c (3/10) NOTICE TO QUIT, TERMINATION OF TENANCY, Landlord-Tenant

Court copy (to be copied, if necessary, to attach to the complaint)

MCL 600.5714(1)(a), (b), MCL 600.5716,  
PL 111-22 § 702, 123 Stat 1660

Approved, SCAO

<b>STATE OF MICHIGAN</b>	<b>NOTICE TO QUIT TERMINATION OF TENANCY Landlord-Tenant</b>	
--------------------------	--	--

TO: OCCUPANT  
22981 Leewin  
Detroit MI 48219

1. Your landlord/landlady, TUTA Homes L.L.C., is terminating your tenancy and wants to evict you from:

Address or description of premises rented (if different from mailing address):

because ☐ your tenancy has ended. ☐ other: Do not wish to rent out.

2. You must move by 1/9/12 or your landlord/landlady may take you to court to evict you.  
Date (\*see note)
3. If your landlord/landlady takes you to court to evict you, you will have the opportunity to present reasons why you believe you should not be evicted.
4. If you believe you have a good reason why you should not be evicted, you may have a lawyer advise you. Call him or her soon.

12/8/11  
Date

Jonathan Deist  
Signature of owner of premises or agent

24001 Southfield rd suite 100  
Address

Southfield MI 48075 313-580-9656  
City, state, zip Telephone no.

\*NOTE: Except for a 7-day notice given under the authority of MCL 600.5714(1)(a), a 24-hour notice given under the authority of MCL 600.5714(1)(b), or a 90-day notice given under the authority of Public Law No. 111-22, § 702, 123 Stat 1660 after foreclosure of the premises, if the lease agreement does not state otherwise, the landlord/landlady must give notice equal in time to at least one rental period.

### HOW TO GET LEGAL HELP

1. Call your own lawyer.
2. If you do not have an attorney but have money to retain one, you may locate an attorney through the State Bar of Michigan Lawyer Referral Service at 1-800-968-0738 or through a local lawyer referral service. Lawyer referral services should be listed in the yellow pages of your telephone directory or you can find a local lawyer referral service at [www.michbar.org](http://www.michbar.org).
3. If you do not have an attorney and cannot pay for legal help, you may qualify for assistance through a local legal aid office. Legal aid offices should be listed in the yellow pages of your telephone directory or you can find a local legal aid office at [www.michiganlegalaids.org](http://www.michiganlegalaids.org). If you do not have Internet access at home, you can access the Internet at your local library.

Tenant's copy

ev. 12/07)

## CIVIL COVER SHEET

County in which action arose Wayne

JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Ralph Claxton(b) County of Residence of First Listed Plaintiff Wayne  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

22981 Lecwin  
Detroit, MI 48219

## DEFENDANTS

Wayne County Treasurer Et AlCounty of Residence of First Listed Defendant Wayne

NO:

Case: 2:12-cv-10344

Judge: Zatkoff, Lawrence P.

MJ: Komives, Paul J.

Attorneys

Filed: 01-26-2012 At 01:05 PM

CMP RALPH CLAXTON V WAYNE COUNTY AS

SESSOR'S OFFICE, ET AL (LG)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☒ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus: <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAXES</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$  
\$ 7,000,000.00CHECK YES only if demanded in complaint:  
JURY DEMAND ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

1-26-12Ralph Claxton

OR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

JRSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes  
☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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